## UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF MISSISSIPPI GULFPORT DIVISION

IN RE: : CASE NO: 23-51456-KMS

**: CHAPTER: 7** 

:

LATREAKA SHANIECE RANKIN RODREKIOUS ARMAUD RANKIN

Debtors

CITIZENS BANK, N.A.,

Movant,

: CONTESTED MATTER

VS.

:

LATREAKA SHANIECE RANKIN : RODREKIOUS ARMAUD RANKIN :

DEREK A HENDERSON T1, Trustee : Respondents. :

## MOTION FOR ABANDONMENT AND RELIEF FROM THE AUTOMATIC STAY (REAL PROPERTY)

Citizens Bank, N.A. ("Movant") hereby moves this Court for abandonment, pursuant to 11 U.S.C. § 554, and relief from the automatic stay, pursuant to 11 U.S.C. § 362, with respect to certain real property of the Debtors having an address of **29 Dempsey Conn Rd, Hattiesburg, MS 39401** (the "Property"), for all purposes allowed by law, the Note (defined below), the **Deed of Trust** (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

- 1. The Debtors have executed and delivered or are otherwise obligated with respect to that certain promissory note in the original principal amount of \$253,326.00 (the "Note"). A copy of the Note is attached hereto as Exhibit "A". Movant is an entity entitled to enforce the Note.
- 2. Pursuant to that certain **Deed of Trust** (the "**Deed of Trust**"), all obligations (collectively, the "Obligations") of the Debtors under and with respect to the Note and the **Deed of Trust** are secured by the Property. A copy of the **Deed of Trust** is attached hereto as Exhibit "B".
  - 3. The legal description of the Property is set forth in the **Deed of Trust**, a copy of which is

attached hereto, and such description is incorporated and made a part hereof by reference.

- 4. As of **November 17, 2023**, the outstanding amount of the Obligations is \$238,502.86.
- 5. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$1,138.00 in legal fees and costs. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.
- 6. As of **November 17, 2023,** the Debtors have failed to make **3** payments due pursuant to the terms of the Note.
- 7. The estimated market value of the Property is \$280,000.00. The basis for such valuation is **Debtors' Schedules**.
  - 8. Cause exists for relief from the automatic stay for the following reasons:
    - a. Movant's interest in the Property is not adequately protected.
    - b. Movant's interest in the collateral is not protected by an adequate equity cushion.
    - c. Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtors have no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.
- 9. The Movant is entitled to an order deeming the Property abandoned by the Trustee as an asset of the bankruptcy estate, pursuant to 11 U.S.C. § 554.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by law, the Note, the **Deed of Trust**, and applicable law, including but not limited to allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

- 2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
- 3. That the Property be deemed abandoned by the Chapter 7 Trustee as an asset of the Bankruptcy estate effective upon entry of the Court's order.
  - 4. For such other relief as the Court deems proper.

RUBIN LUBLIN, LLC

/s/ Natalie Brown
Natalie Brown
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Attorney for Creditor

Date: <u>11/22/23</u>

## **CERTIFICATE OF SERVICE**

I, Natalie Brown of Rubin Lublin, LLC certify that I caused a copy of the Motion for Abandonment and Relief from Automatic Stay (Real Property) to be filed in this proceeding by electronic means and to be served by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to the said parties as follows:

Latreaka Shaniece Rankin 29 Dempsey Conn Rd Hattiesburg, MS 39401

Rodrekious Armaud Rankin 29 Dempsey Conn Rd Hattiesburg, MS 39401

Thomas Carl Rollins, Jr, Esq. The Rollins Law Firm, PLLC PO BOX 13767 Jackson, MS 39236

Derek A Henderson T1, Trustee 1765-A Lelia Drive Suite 103 Jackson, MS 39216

United States Trustee 501 East Court Street Suite 6-430 Jackson, MS 39201

Executed on <u>11/22/23</u>

By:/s/ Natalie Brown
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